

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In Re:

MARVEN WAMWRIGHT,

Debtor.
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Case No. 1-13-43546-ess
Chapter 13

AFFIDAVIT

Return Date: December 11, 2013
10:00 AM

STATE OF NEW YORK)
) SS.:
COUNTY OF _____)

Marven Wamwright, being duly sworn, deposes and says:

1. I am the debtor in this case.
2. I am submitting this affidavit in support of my motion for an order:
 - a) vacating the order of dismissal dated October 29, 2013, pursuant to Fed. R. Bankr. P. 9024 and Rule 60 Fed. Civ.P.; and
 - b) restoring this Chapter 13 case to the calendar for confirmation of the Chapter 13, plan, and scheduling a 341 meeting of creditors, premised on that the reason the debtor failed to appear was due to the illness of debtor's mother, and that debtor complied with the court's order to cure the deficient filing; and
 - c) granting any such other and further relief as to this court may seem just and proper.
3. On October 4, 2013, I filed the documents that were missing documents listed in the deficient filing notice previously mailed to me. The documents that I filed are listed under docket entries numbers 22, 23, 24, 25 and 26. The items filed were the missing schedules, monthly income statement, employment records, and the Chapter 13 plan.
4. I had not filed those items before because I found it extremely difficult do complete all of the required paperwork. I had to take time to figure out how to fill out the required

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papers to be able to do it. I was finally able to do it and file it.

5. The court then set October 29, 2013, for a hearing. I was unable to appear in court on that date.

9. The reason that I was not able to appear in court on October 29, 2013, is that my mother was hospitalized. During the past several months my mother has been in and out of the hospital. She is suffering from cancer. She is being treated at Coney Island Hospital. I am very concerned about her health. On October 29, 2013, I was by my mother's side at the hospital.

11. I apologize to the court for not appearing. I did not know how to communicate to the court my predicament. I did not deliberately disregard my obligation to appear. My lack of appearance stems from my being preoccupied with my mother's health, rather than from any deliberate disregard on my part of my obligations as a litigant.

12. Considering the above, it is respectfully submitted to this court that my default in this case is excusable.

13. The rules provide for setting aside a default in the discretion of the court. Fed. R. Bankr. R. 9024, Fed. R. Civ. P. 60(b). Courts, in the exercise of discretion, are guided by the fact that default judgments are not favored by the law. *Coon v. Grenier*, 867 F2d 73 (C.A. 1st 1989), 10A Wright, Miller & Kane, Civil 3d § 2393. The party seeking relief from a default must show that there was a good reason for the default and that the party has a meritorious defense to the action. *McGradu v. D'Andrea Elec., Inc.*, 434 F2d 1000 (C.A. 5th 1970).

14. As has been set forth above, my lack of appearance stems from the fact that I had concerns about my mother's health and that as a result, I was not able to appear in court. I did deliberately disregard my obligations as a litigant.

15. Moreover, as has been set forth above, I believe I have a meritorious case, as

represented by the documentation filed in support of my Chapter 13 case.

16. It is, therefore, respectfully requested that this court vacate the order of dismissal dated October 29, 2013, and restore this case to this court's calendar.

WHEREFORE, it is respectfully requested that this court grant an order:

a) vacating the order of dismissal dated October 29, 2013, pursuant to Fed. R. Bankr. P. 9024 and Rule 60 Fed. Civ.P.; and

b) restoring this Chapter 13 case to the calendar for confirmation of the Chapter 13, plan, and scheduling a 341 meeting of creditors, premised on that the reason the debtor failed to appear was due to the illness of debtor's mother, and that debtor complied with the court's order to cure the deficient filing; and

c) granting any such other and further relief as to this court may seem just and proper.

Dated:

11/18/13

Respectfully submitted,



Marven Wamwright
Debtor Pro Se

Sworn to before me this

18 days of November, 2013



Fanny Villacres
Notary Public, State of New York
Qualified in Queens County
Lic #01VI5025254
Commission Expires 3 / 21

2014